

JOSEPH P. RUSSONIELLO (CASBN 44332)  
United States Attorney

BRIAN J. STRETCH (CASBN 163973)  
Chief, Criminal Division

SHAWNA YEN (CASBN 224447)  
Assistant United States Attorney

150 Almaden Boulevard, Suite 900  
San Jose, California 95113  
Telephone: (408) 535-5054  
Fax: (408) 535-5066  
Email: [shawna.yen2@usdoj.gov](mailto:shawna.yen2@usdoj.gov)

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

KHAN QUOC TIEU,

Defendant.

No. 08-70284 (PVT)

~~Proposed~~  
ORDER CONTINUING CASE AND  
EXCLUDING TIME UNDER THE  
SPEEDY TRIAL ACT, 18 U.S.C. § 3161

This matter came before the Court for a detention hearing on Wednesday, May 21, 2008. Counsel for the government and the defendant were present.

At the hearing, the defendant was advised and stated that he understood that under Rule 5.1(c) of the Federal Rules of Criminal Procedure he is entitled to a preliminary hearing within 10 days of his initial appearance as an in-custody defendant or within 20 days of his initial appearance as an out-of-custody defendant, unless an indictment is filed, and that pursuant to 18 U.S.C. § 3161(b) he is entitled to be indicted within 30 days of his arrest in this matter. After consultation with his attorney, the defendant stated that he wished to waive those rights and continue the hearing set for preliminary hearing or indictment until

1 June 12, 2008.

2 At the conclusion of the hearing, and at the request of defense counsel, without objection  
3 by the government, the Court ruled as follows:

4 IT IS HEREBY ORDERED that the preliminary hearing or arraignment be continued  
5 from May 29, 2008 to June 12, 2008 at 9:30 a.m.

6 IT IS FURTHER ORDERED that a status hearing be set for May 29, 2008 at 9:30 a.m.  
7 for further detention hearing and for possible identification of counsel.

8 IT IS FURTHER ORDERED that the period of time from May 21, 2008 through and  
9 including June 12, 2008, shall be excluded from the period of time within which an indictment or  
10 information must be filed under the Speedy Trial Act, 18 U.S.C. § 3161(b), pursuant to Title 18,  
11 United States Code, Section 3161(h)(8)(A), considering the factors set forth in Section  
12 3161(h)(8)(B). The Court finds that the ends of justice served by this continuance outweigh the  
13 best interests of the public and the defendant in a speedy trial because the parties require the  
14 additional time to discuss the potential for pre-indictment resolution of this case.

15 IT IS FURTHER ORDERED that the period of time for a preliminary hearing is  
16 extended under Federal Rule of Criminal Procedure 5.1(d), until June 12, 2008 based on the  
17 defendant's consent and based on the parties' showing of good cause as set forth above.

18 For the foregoing reasons, the Court finds that the interests of justice in granting this  
19 continuance outweigh the defendant's and the public's interests in a speedy trial.

20 Dated this 21 day of May, 2008.

21  
22   
23 PATRICIA V. TRUMBULL  
24 United States Magistrate Judge  
25  
26  
27  
28